**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION NO. 11762 OF 2001**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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**TALUKA DEVELOPMENT OFFICER (IRD) & ORS. - Petitioner(s)**

**Versus**

**THAKOR PANKAJKUMAR GANPATSINH - Respondent(s)**

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**Appearance :**

Ms. Preeti S. Parmar for Petitioner(s) : 1 – 3.

Shri U. M. Shastri for Respondent(s).

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG**

**Date : 12/09/2007**

**ORAL JUDGMENT**

The petitioners, being aggrieved by the award dated 31st July, 1998 passed by the learned Presiding Officer, Labour Court, Godhra

in Reference (LCG) No.400 of 1994, are before this Court under Article 227 of the Constitution of India.

2. On being asked that how a person, who did not know typing, could be appointed on the post of Clerk-cum-Typist, the learned Counsel for the respondent submitted that the question was not raised before the learned Court below and the matter proceeded *ex parte*. The learned Counsel for the respondent, however, submitted that to give a last opportunity to the present petitioners, the matter may be remanded back to the learned Court below with a direction to the petitioners to appear in the matter and take part in the proceedings and assist the Court.

3. In view of the said submission, the *ex parte* award made by the learned Court below is hereby quashed and set aside.

The parties present before this Court shall appear before the learned lower Court on 25th October, 2007. If the present petitioners appear before the said Court and file a copy of this order, then, the learned Court below shall grant them an opportunity to file written statement/additional written statement. In case the petitioners do not appear on the said date, the learned Court below shall be entitled to proceed *ex parte* and the present petitioners would have no right to take

part in further proceedings, nor would be entitled to make an application for setting aside the *ex parte* proceedings. If the present petitioners take part in the proceedings and lead evidence, then, the learned Court below shall decide the matter in accordance with law, but, if after the first appearance, the present petitioners do not appear or do not take part in the further proceedings, then, the learned Court below shall be entitled to proceed *ex parte* and decide the matter. The present petitioners would have no right to make an application for setting aside the *ex parte* proceedings or *ex parte* award

4. The petition to the extent indicated above is allowed. Rule is made absolute. No costs.

***[R.S.Garg, J.]***

*kamlesh**